

Chapter 22 – On-Going Compliance Issues

Even after your award has expired and you have been issued a close-out letter from the Indiana Housing Finance Authority, depending on your scope of project you may have additional requirements.

A. CDBG Program Income

CDBG regulation, 24 CFR 570.489, defines program income as the gross income received by a state, unit of local government or a subrecipient that was generated from the use of CDBG funds. Program income includes, but is not limited to the following:

- Proceeds from the sale of CDBG assisted housing;
- Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG funds;
- Proceeds from the disposition of equipment purchased with CDBG funds;
- Gross income from the use or rental of real or personal property acquired by the unit of general local government or a subrecipient of a unit of a local unit of government with CDBG funds, less the costs incidental to the generation of income;
- Gross income from the use or rental of real property owned by the unit of general local government or a subrecipient of a unit of general local government, that was constructed or improved with CDBG funds, less the costs incidental to the generation of income;
- Payments of principal and interest on loans made using CDBG funds;
- Proceeds from the sale of loans made with CDBG funds;
- Proceeds from the sale of obligations secured by loans made with CDBG funds;
- Interest earned on funds held in a revolving fund account; and
- Interest earned on program income pending disposition of the income.

Program Income that is generated by an activity that was only partially assisted with CDBG and leveraging funds, the income shall be prorated to reflect the percentage of CDBG funds used.

B. Treatment of CDBG Program Income

The following outlines the three methods in which CDBG program income should be treated.

1. Program income that is generated when an entity has another open CDBG award, the program income should be spent on the current award prior to drawing down additional funds from IHFA. Additionally, the maximum amount of CDBG program income that may be expended on program delivery, administration and environmental review is limited to 20% of the total receipt.
2. If an entity does not have an open award, program income amounting to less than \$25,000 received during the local unit of government's fiscal year may be kept by the local unit of government and is not subject to the program income requirements.
3. If an entity does not have an open award, program income amounting too greater than or equal to \$25,000 received during the local unit of government's fiscal year may not be kept by the local unit of government and must be returned to IHFA. However, under certain circumstances, IHFA may permit you to establish a revolving loan fund for additional CDBG-eligible activities. For further information on this issue, please contact your IHFA Compliance Specialist.

C. HOME Program Income

HOME Program Income is gross income received by the participating jurisdiction (IHFA), state recipient (local unit of government) or an IHFA HOME subrecipient directly generated from the use of HOME funds or matching contributions.

Income generated by CHDOs, not-for-profits, or for-profits acting as owners, sponsors or developers of HOME units is not considered program income.

When housing that generates program income is only partially assisted with HOME funds or matching funds, the income shall be prorated to reflect the percentage of HOME funds used. Program income includes, but is not limited to, the following:

1. proceeds from the disposition by sale or long-term lease of real property acquired, rehabilitated, or constructed with HOME funds or match contributions;
2. gross income from the use of rental of real property, owned by the participating jurisdiction, State recipient, or a subrecipient, that was acquired, rehabilitated, or constructed, with HOME funds or matching contributions, less costs incidental to generation of the income;
3. payments of principal and interest on loans made using HOME funds or matching contribution;
4. proceeds from the sale of loans made with HOME funds or matching contributions;
5. proceeds from the sale of obligations secured by loans made with HOME funds or matching contributions;
6. interest earned on program income pending its disposition; and
7. any other interest or return on the investment permitted under § 92.205(b) of the HOME funds or matching contribution.

D. Treatment of HOME Receipts

The following outlines the three methods in which HOME program income should be treated.

1. Treatment by Local Unit of Government

Local units of government that receive HOME repayments during the affordability period must return the funds to the IHFA. However, if you have an open HOME award with the IHFA, you must use these funds prior to drawing additional funds from the IHFA. The funds must only be utilized on the following line items: new construction, rehabilitation, program delivery and demolition.

2. Treatment by Not for Profit or For Profit Not Acting as an Owner, Sponsor or Developer (e.g. owner occupied rehabilitation or homeownership counseling/downpayment assistance)

Not-for-profit entities or for-profit entities that receive HOME repayments during the affordability period must return the funds to the IHFA. However, if you have an open award with IHFA, you must use these funds prior to drawing down additional funds from IHFA. The funds must only be utilized on the following line items: new construction, rehabilitation, program delivery and demolition.

3. Treatment by Not for Profit or For Profit Acting as an Owner Sponsor or Developer

Not for profit entities or for profit entities receiving payment back from homebuyers or rental tenants during the affordability period may keep these funds and the funds must be utilized for housing activities that benefit low-income families as provided in the IHFA Shelters to Homeownership Application package.

4. Treatment by a CHDO

CHDOs receiving payment back during the affordability period may retain these funds. The funds must be utilized for housing activities that benefit low-income families as provided in 24 CFR 92.300(a)(2).

E. HOME Recaptured Funds

If funds are recaptured because the housing no longer meets affordability requirements, regardless of the entity or activity, these funds must be returned to the IHFA.

F. Rental Reporting

IHFA will send a letter informing you when your first report is due to IHFA. HOME and CDBG recipients of the following activities will be required to submit an Annual Rental Report throughout the affordability period:

- rental,
- transitional housing,
- migrant seasonal farmworker housing;
- emergency shelters; and
- youth shelters.

The report covers the period January 1 – December 31 and is due to IHFA offices by the close of business January 31st.

The rental report comprises the following:

- Owner Certification Form;
- Property Information Form; and
- Tenant Information Form.

The rental report will be mailed to those entities that are required to submit this report and will be available on the IHFA website in November 2002.

G. Rental Inspection

All rental and transitional housing properties will be inspected throughout your affordability period based on the following:

# of Units in Development	Inspection Period
1 – 4 Units	Every 3 Years
5 – 25 Units	Every 2 Years
26 or More Units	Every Year

All emergency shelters, youth shelters and migrant seasonal farmworker housing will be inspected every other year regardless of the number of beds in the development.

Please note that the inspection is not based on the number of HOME or CDBG assisted units, but the total number of units in the development. IHFA staff or a representative of IHFA will conduct the inspection.

H. Tenant File Reviews

All developments will have a tenant file review in the same year the development has an inspection. IHFA staff or a representative of IHFA will conduct the tenant file review. The tenant file review will either be conducted on-site or through a desk-top review. Regardless of whether it is done on- or off-site, the review will consist of the following:

Fair Housing and Equal Opportunity

Are the fair housing and equal opportunity posters displayed at:

- (1) The property location if a single site project and/or
- (2) At the site where residents apply for housing.

Lead Based Paint Educational Information

Is the Lead Based Paint Poster displayed at:

- (1) The property location if a single site project;
- (2) At the site where residents apply for housing; and
- (3) Annual re-certification of the unit passing a visual assessment (as required by the Lead-Based Paint regulations).

Affirmative Marketing (only for projects with 5 or more HOME-assisted rental units)

IHFA will review your Affirmative Marketing Plan process utilized in determining the market least likely to apply for housing, and how you marketed your units to this segment of the population. We will review documentation including brochures, advertisements and marketing materials that were utilized.

Tenant Selection Policies

IHFA will review your tenant selection policies utilized by management. The written policy should allow IHFA staff to determine how tenants are selected and the criteria used for approving applicants.

Utility Allowance

IHFA will review documentation of utilities paid by the tenant versus those paid by the owner.

Tenant Files

For each tenant randomly selected, you will need to provide the following documentation:

Lease

- Income verification & documentation;
- Utility allowance & documentation; and
- Documentation of the receipt of the applicable brochures.